

DETAILED ACTION

1. Applicants' appeal brief filed July 1, 2009 is acknowledged. Claims 1, 3-4, 10-11, 15-17, 19, 23 and 27-30 are pending.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Timothy J. Troy on September 23, 2009.

The application with respect to the amendment filed October 7, 2008 has been amended as follows:

In Claim 1 (line 17) and Claim 23 (line 20), remove "which are esterified by carboxylate groups".

In Claim 1 (line 21) and Claim 23 (line 24), replace "32" with -- 36 --.

Art Unit: 1796

4. Claim rejection(s) under 35 USC 112 in the previous Office Action (Paper No. 20081220) is/are removed.

5. Claim rejection(s) under 35 USC 102 and 103 in the previous Office Action (Paper No. 20081220) is/are removed.

After further considering Applicants' clarification that in the affidavit filed October 7, 2008, the same silicone foam control agent was deposited on the particulate support in a ***non-aqueous*** form in the claimed invention and on that in an ***aqueous*** form in a comparison experiment according to Schmid's disclosure. As such, there was sufficient evidence that an unexpected beneficial result was obtained when the silicone foam control agent was deposited to the particulate support in the claimed process.

Allowable Subject Matter

6. Claims 1, 3-4, 10-11, 15-17, 19, 23 and 27-30 are allowed.

7. The following is an examiner's statement of reasons for allowance:

Art Unit: 1796

The present claims are allowable for at least the following reason(s) over the closest reference: Schmid (US 6 610 752) in view of L'Hostis (EP 1 075 863).

Schmid discloses a method of manufacturing a granular foam control composition comprising a polydiorganosiloxane containing methyl, ethyl, propyl, butyl and phenyl groups, **a microfine silanized silica, a polyol ester** such as the esters of glycerol and palmitic acid (typically containing a mixture of glycerol mono, di-, and tripalmitate), etc., a bisamide, a fatty acid, a microcrystalline paraffin wax. (col. 2, line 34 to col. 5, line 56 and Examples) The granular foam control composition can be prepared according the method described in col. 3, line 19 to col. 4, line 13, col. 5, line 57 to col. 7, line 67 and Examples. Schmid is silent on the polydiorganosiloxane where the substituents have the claimed mean number of carbon atoms, the claimed long chain alkyl group or the claimed X-Ph moiety. L'Hostis teaches the use of in a foam control composition a polyorganosiloxane that read on the claimed ones. The motivation of using the specific polyorganosiloxane is to afford a granular foam control composition with enhanced foam control efficiency. (col. 2, lines 46-51, col. 2, line 64 to col. 3, line 46, col. 4, line 64 to col. 5, line 28 and col. 7, line 65

Art Unit: 1796

to col. 8, line 35) In light of the benefit mentioned, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize L'Hostis' polyorganosiloxane in Schmid's composition with expected success.

Schmid teaches depositing a composition comprising the polydiorganosiloxane, polyol ester, etc. in **aqueous liquid form** onto the particulate carrier. (col. 2, lines 5-30) However, Schmid **does not** teach or fairly suggest the composition is deposited onto the particulate carrier in a **non-aqueous form**. Especially, Applicants' affidavit shows the criticality of the non-aqueous depositing process, *supra*.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

Art Unit: 1796

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp
September 23, 2009

/Kuo-Liang Peng/
Primary Examiner, Art Unit 1796